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Counsel for Defendants Premier Orthopaedic and Sports Medicine Associates of Southern New Jersey, LLC, trading as Premier Orthopaedic Associates, Premier Orthopaedic Associates Surgical Center, LLC, Kimberly Yvette Smith, M.D., a/k/a Kimberly Yvette Smith-Martin, M.D., Thomas Dwyer, M.D., Richard C. DiVerniero, M.D., and Richard Strauss, M.D.

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: NEW ENGLAND
COMPOUNDING PHARMACY, INC.
PRODUCTS LIABILITY LITIGATION

THIS DOCUMENT RELATES TO:

All New Jersey Cases

MDL No. 2419

Docket No. 1:13-md-2419 (RWZ)

**ASSENTED-TO MOTION BY PREMIER ORTHOPAEDIC AND SPORTS
MEDICINE ASSOCIATES OF SOUTHERN NEW JERSEY, LLC, ET. AL FOR
EXTENSION OF COMMON-ISSUE FACT DISCOVERY**

Pursuant to Federal Rule of Civil Procedure 6(b), Defendants Premier Orthopaedic and Sports Medicine Associates of Southern New Jersey, LLC, trading as Premier Orthopaedic Associates, Premier Orthopaedic Associates Surgical Center, LLC, Kimberly Yvette Smith, M.D., a/k/a Kimberly Yvette Smith-Martin, M.D., Thomas Dwyer, M.D., Rhaul Shah, M.D., John Catalano, M.D., Richard C. DiVerniero, M.D., and Richard Strauss, M.D. (Hereinafter “The

Premier Defendants” or “Premier”) with the assent of the Plaintiffs’ Steering Committee (“PSC”), hereby move the Court for entry of the agreed order attached as Exhibit 1.

The current common-issue fact discovery deadline for the Premier Defendants is March 22, 2016. The parties have worked diligently to complete discovery pursuant to this Order and in accordance with the Court’s schedule.

The Premier Defendants first noticed the Deposition by Written Questions of ten entities on or around October 15, 2015. The Depositions by Written Question process was delayed by motion practice until final approval by the Court on December 17, 2015. [See Dkt. Nos. 2333, 2372, 2374, 2385, 2408, 2519, 2528.] In the beginning of January, 2016 the Premier Defendants sent letters via US Mail to the eight noticed clinics, attaching the Court’s Order (Dkt. No. 2528) and requesting said clinics choose deposition dates in February, 2016. The Premier Defendants reached out again in February by phone and email to the majority of said entities in efforts to schedule depositions. The deposition of Ross Center for Orthopedics occurred on February 29, 2016. The depositions of University of Tennessee Medical Center and Central Jersey Orthopedic Specialists are successfully scheduled for early March, 2016 and the Premier Defendants are in contact with all other entities in efforts to determine deposition dates.

On February 29, 2016, Summit Surgery Center filed a Motion to Quash the subpoena for the Deposition by Written Question first noticed on or around October 15, 2015. [See Dkt. No. 2699.]

Additionally, the oral deposition of one of the Premier Defendants, Dr. Kimberly Smith-Martin, was canceled by the PSC from the originally scheduled January 2016 date as the doctor was pregnant and due to give birth before the end of January. Since that time, Dr. Smith delivered a baby girl on January 28, 2016. Rescheduling her deposition has proven difficult due to her maternity leave but it is expected that the deposition can occur in April 2016.

As a result, the Premier Defendants reached out to the PSC to discuss the impending common-issue fact discovery deadline. The Premier Defendants and the Plaintiff Steering Committee have agreed to extend the common-issue fact discovery deadline in the Premier cases until June 1, 2016.

Accordingly, the Premier Defendants, with assent of the PSC, respectfully request that the Court enter the proposed order attached as Exhibit 1, extending the common-issue fact discovery deadline with respect to the Premier Defendants until June 1, 2016.

Respectfully submitted,

Blumberg & Wolk, LLC

By: /s/ Christopher M. Wolk, Esq.

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CERTIFICATE OF SERVICE

I certify that in submitting this *MOTION*, I caused a copy of the above to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's System, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: March 4, 2016

/s/ Christopher M. Wolk
Christopher M. Wolk, Esq.